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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS A. LETZLER,

Defendant.

) INFORMATION
) 5:07CR089 1
) CASE NO.
) JUDGE JUDGE BOYKO
)
) Title 15, Sections 78j(b) and 78ff, United
) States Code, Title 17, Code of Federal
) Regulations, Section 240.10b-5

COUNT ONE
(Securities Fraud)

The United States Attorney charges:

Relevant Persons and Entities

At all times material to this Information:

1. The defendant, THOMAS A. LETZLER, was a resident of Stow, Ohio.
2. From in or about February 2001, through on or about February 20, 2006, the defendant, THOMAS A. LETZLER, was a Financial Representative at Northwestern Mutual Financial Network ("Northwestern Mutual"), a broker-dealer and investment adviser registered with the United States Securities and Exchange Commission ("SEC"). Northwestern Mutual was the marketing name for the sales and distribution arm of The Northwestern Mutual Life

Insurance Company which is headquartered in Milwaukee, Wisconsin. LETZLER worked out of a Northwestern Mutual office located at 202 Montrose West Avenue, Suite 100, Akron, Ohio 44139. LETZLER was registered as an Investment Company and Variable Contracts Representative with the National Association of Securities Dealers ("NASD"), with a Series 6 license and licensed as a securities salesperson and investment adviser representative with the Ohio Division of Securities until Northwestern Mutual terminated his employment.

3. NUF LLC ("NUF") was an Ohio limited liability company formed and registered on or about April 5, 2005. NUF was purportedly in the business of toy and hobby manufacturing. William R. Harms Legacy Foundation was an Ohio corporation, formed as a non-profit organization (501(c)(3)) on or about November 23, 2004.

4. LETZLER maintained a checking account (#87-6572901) in the name of THOMAS A. LETZLER, at BankOne located in the Northern District of Ohio ("LETZLER Personal Account"); LETZLER used this account to pool investor money. LETZLER also maintained a corporate checking account (#64-382-8155) in the name of William R. Harms Legacy Foundation, a.k.a. Williams Legacy, at JP Morgan Chase Bank, N.A. (f.k.a. Bank One Chase) located in the Northern District of Ohio ("Williams Legacy Account"). LETZLER was an authorized signatory on these accounts (hereinafter referred to collectively as the "LETZLER Accounts").

THE FRAUDULENT SCHEME

Statutory Allegation

5. From on or about May 27, 2003, through on or about March 14, 2006, in the Northern District of Ohio, Eastern Division and elsewhere, THOMAS A. LETZLER, the defendant, unlawfully, wilfully, and knowingly, by the use of the means and instrumentalities of interstate commerce and of the mails, directly and indirectly, would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5, by (a) employing devices, schemes, and artifices to defraud, (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and (c) engaging in acts, practices, and courses of business which operated and would operate as a fraud upon investors, in connection with the purchase and sale of the securities, to wit: Real Estate Investment Trusts ("REITs") and other investment contracts involving real estate development.

Scheme to Defraud

6. From in or about May 27, 2003, through on or about March 14, 2006, THOMAS A. LETZLER, the defendant, promoted and sold securities to at least three (3) different investors, resulting in thousands of dollars of overall investor loss. These securities were not registered with the SEC or the State of Ohio-Division of Securities. While LETZLER sold securities and investments in the form of REITs and other investment contracts, the investments did not have the represented purpose of generating profitable returns for investors but rather had the purpose of supporting LETZLER's personal expenses.

7. Rather than actually investing all of the client funds, THOMAS A. LETZLER unlawfully used the clients' money to fund the LETZLER Accounts.

8. To accomplish the fraudulent scheme, THOMAS A. LETZLER, the defendant, promoted and sold, among other things, REITs and other investment contracts. To induce clients to participate in his investment program, LETZLER falsely represented, orally and in writing, that the investor funds would be invested and used to finance construction projects and purchase mortgages. LETZLER fraudulently represented that the investments would generate rates of return of up to 8 percent. In one instance, LETZLER told an investor that the investment would triple in three years, with minimal risk. LETZLER knew that the investor proceeds would not be used in that manner, but rather used to pay his personal debts and expenses and fund other interests he controlled.

9. LETZLER would falsely represent that the investors were achieving returns on their investments, both orally and in writing, causing investors to defer their compensation and lull them into the belief that their investments were making money. In order to conceal the fraudulent scheme, LETZLER provided investors fictitious letters and account statements, through the U.S. mails, reflecting positive investment performance when, in truth and in fact, none of the money was ever invested as stated. In order to lend legitimacy to the scheme, LETZLER prepared these account statements on Northwestern Mutual letterhead, signed THOMAS A. LETZLER, Financial Representative. At least one investor never received a written statement reflecting investment activity on their behalf.

a. For example, on or about May 27, 2003, LETZLER sent a letter to an investor which stated:

"Please use this letter as confirmation of the REIT investment dated July 1, 2002, . . . The original amount invested was forty thousand dollars (\$40,000) and of this [sic] date has an accrued value of forty two thousand, eight hundred ninety three dollars and fifteen cents (\$42,893.15), and is due June 30, 2003."

- b. In another letter to an investor dated July 29, 2005, LETZLER stated:

"This letter is to acknowledge receipt of your original investment of forty thousand dollars and zero cents, (\$40,000.00) on November 30, 2004. These funds are invested in a private investment pool of 571 investors with total access exceeding eight million dollars. (\$8,000,000.00) These funds are invested into and backed by land, buildings, product inventory, and LLC companies. This is NOT a mutual fund, but is operated on the same principals as a mutual fund. . . ."

Execution of the REIT and Investment Contract Scheme

10. The transactions that were part of the fraudulent scheme are the following:
- a. On or about July 5, 2002, an investor made a check payable to THOMAS A. LETZLER in the amount of \$40,000.
- b. On or about September 17, 2003, an investor made a check payable to THOMAS A. LETZLER in the amount of \$12,500.
- c. On or about November 19, 2004, an investor made a check payable to THOMAS A. LETZLER in the amount of \$40,000.

11. From in or about May 27, 2003, to on or about March 14, 2006, the defendant, THOMAS A. LETZLER, charged and received approximately \$92,500 in investor monies.

All in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

GREGORY A. WHITE
UNITED STATES ATTORNEY